

### § 416.533

of payment for the couple, the countable income subtracted, and the resulting total benefit divided equally between the eligible individual and the eligible spouse.

(b) Where the essential person lives with two eligible individuals (as opposed to an eligible individual and eligible spouse), one of whom has been designated the qualified individual, the income and resources of the essential person will be considered to be available only to the qualified individual (as defined in § 416.221) and any increase in payment will be made to such qualified individual.

(c) In those instances where the State has designated the essential person as essential to two or more eligible individuals so that both are qualified individuals, the payment increment attributable to the essential person must be shared equally, and the income and resources of the essential person divided and counted equally against each qualified individual.

(d) When an essential person lives with an eligible individual and an eligible spouse (or two or more eligible individuals) only one of whom is the qualified individual, essential person status is not automatically retained upon the death of the qualified individual or upon the separation from the qualified individual. A review of the State records established on or before December 31, 1973, will provide the basis for a determination as to whether the remaining eligible individual or eligible spouse meets the definition of qualified individual. Payment in consideration of the essential person will be dependent on whether the essential person continues to live with a qualified individual. If the essential person does reside with a qualified individual, status as an essential person is retained.

[39 FR 33796, Sept. 20, 1974, as amended at 50 FR 48572, Nov. 26, 1985; 51 FR 10616, Mar. 28, 1986; 60 FR 16375, Mar. 30, 1995]

### § 416.533 Transfer or assignment of benefits.

Except as provided in § 416.525 and subpart S of this part, the Social Security Administration will not certify payment of supplemental security income benefits to a transferee or as-

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signee of a person eligible for such benefits under the Act or of a person qualified for payment under § 416.542. The Social Security Administration shall not certify payment of supplemental security income benefits to any person claiming such payment by virtue of an execution, levy, attachment, garnishment, or other legal process or by virtue of any bankruptcy or insolvency proceeding against or affecting the person eligible for benefits under the Act.

[41 FR 20873, May 21, 1976, as amended at 58 FR 52912, Oct. 13, 1993]

### § 416.535 Underpayments and overpayments.

(a) *General.* When an individual receives SSI benefits of less than the correct amount, adjustment is effected as described in §§ 416.542 and 416.543, and the additional rules in § 416.545 may apply. When an individual receives more than the correct amount of SSI benefits, adjustment is effected as described in § 416.570. Refund of overpayments is discussed in § 416.560 and waiver of recovery of overpayments is discussed in §§ 416.550 through 416.555.

(b) *Additional rules for individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability.* When an individual whose drug addiction or alcoholism is a contributing factor material to the determination of disability, as described in § 416.935, receives less than the correct amount of SSI benefits, adjustment is effected as described in §§ 416.542 and 416.543 and the additional rule described in § 416.544 applies.

(c) *Additional rules for eligible individuals under age 18 who have a representative payee.* When an eligible individual under age 18 has a representative payee and receives less than the correct amount of SSI benefits, the additional rules in § 416.546 may apply.

(d) *Additional rules for eligible aliens and for their sponsors.* When an individual who is an alien is overpaid SSI benefits during the 3-year period in which deeming from a sponsor applies (see § 416.1160(a)(3)), the sponsor and the alien may be jointly and individually liable for repayment of the overpayment. The sponsor is liable for the overpayment if he or she failed to report correct information that affected